

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA, §
Plaintiff, §
VS. §
MICHAEL BLAINE FAULKNER, §
Defendant. §
§
§
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§
§
Criminal No. 3:09-CR-249-D (02)

ORDER

Defendant Michael Blaine Faulkner’s (“Faulkner’s”) May 4, 2012 motion for continuance, which the government opposes, is denied. The court will, however, extend until May 21, 2012 at 5:00 p.m. the deadline for both sides to file objections to the presentence report (“PSR”) addendum.

The sentencing hearing in this case was originally set for March 23, 2012. The PSR was disclosed on February 10, 2012. In orders filed on February 23 and 24, 2012, the court adjusted the deadline for the parties to file objections to the PSR. Both sides filed timely objections on March 2, 2012.

On March 9, 2012 the court granted Faulkner's March 7, 2012 unopposed motion for continuance of sentencing. In his motion, Faulkner requested "at least an additional twenty-eight (28) days" from the March 23, 2012 sentencing date. D. Mar. 7, 2012 Mot. Cont. 2. The court granted a continuance of approximately 60 days, until May 25, 2012. Under the court's March 9, 2012 order, the court also continued until April 27, 2012 the deadline for the parties to submit objections to the presentence report (and for defendant to submit correspondence on his behalf). The order specified that all other deadlines set out in the court's December 28, 2011 sentencing scheduling order, as modified by the court's February 23 and 24, 2012 orders, would be calculated

based on these new dates. This had the effect of setting May 10, 2012 (i.e., 15 days before the date of sentencing) as the deadline for the probation officer to furnish any revisions or addendum to the PSR, and May 18, 2012 (i.e., 7 days before the sentencing date) for the parties to deliver any objections to the addendum. The probation officer filed the addendum on May 3, 2012, one week before the amended deadline and about three weeks before the scheduled sentencing hearing.

Faulkner moves for a continuance based on his counsel's unavailability during the period May 5 through 10, 2012. He maintains that he and his counsel must have time to meet in person so that objections to the addendum can be timely filed by May 18. Although the court would ordinarily attempt to accommodate counsel's scheduling conflicts (even, as here, on a personal matter), the government has established in its opposition response several reasons why continuing the sentencing hearing would prejudice the government. These include defeating the efficiencies that would be realized by sentencing Faulkner on the same date that codefendants Matthew Norman Simpson and Nathan Todd Shafer are sentenced, and the need to sentence Faulkner before sentencing several other codefendants. At least one of the government's reasons (the need to reschedule other sentencing hearings in the case) supports a finding that granting the requested continuance would substantially inconvenience the court.

Additionally, under the schedule in place, Faulkner has from May 3 to May 18 to file any objections to the PSR addendum. Even when the period May 5 through 10 is removed, his counsel still has several days to prepare objections to the PSR addendum and to meet with Faulkner before filing them. And considering that the subject of the objections is the PSR addendum rather than the PSR itself, this period is sufficient. Even so, to ensure that Faulkner's counsel has sufficient time

to confer with Faulkner and file any objections, the court will extend until May 21, 2012 at 5:00 p.m. the deadline for both sides to file objections to the PSR addendum.

Faulkner's motion for continuance is denied.

SO ORDERED.

May 8, 2012.



SIDNEY A. FITZWATER
CHIEF JUDGE